

The State of New Hampshire

Orig. material in 424.9

Opinion

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June 10, 1975

His Excellency, Meldrim Thomson, Jr.
and the Honorable Council
State House
Concord, New Hampshire 03301

Your Excellency and Gentlemen:

This is in response to your request by Resolution dated May 28, 1975 for an opinion setting forth those legal and administrative requirements that must be met if the proposal entitled "The Franconia/Profile Cooperative Project", submitted March 17, 1975 to the U.S. Department of Health, Education, and Welfare by the Franconia College, is to comport with appropriate New Hampshire law. Although it is not practicable at this juncture to foresee all possible problem areas which may arise in this fluid and unconventional proposal, which involves a private college in the operations of a public high school, the following statutes and regulations governing public secondary education in New Hampshire must be complied with as conditions precedent to the lawful implementation of the proposal:

(1) The school district decides upon the location of schoolhouses pursuant to RSA 199:1 (supp), and the district's schools shall be kept there, if the same are suitable houses, pursuant to RSA 199:21. Changes in location are made by order of the superior court, pursuant to RSA 194:35.

(2) The State Board of Education approves public high schools for compulsory attendance purposes and State financial aid purposes pursuant to RSA 194:23-b and 23-d, respectively. Among the criteria to be used by the State Board is the requirement contained in RSA 194:23, 23-a that the proposed high school itself offer a particular course of studies for four full years, subject to the limited exceptions, for which State Board approval is required,

contained in RSA 194:23-c (temporary waiver) and RSA 193:1-a, b (supp) (dual enrollment programs).

(3) High school curricula are subject to the requirements of RSA 189:10, 11, 19, 24; RSA 191:1, 2; and RSA 186:5, 8; RSA 194:2, 3; and RSA 189:15.

(4) Pursuant to RSA 186:11, X (supp) and RSA 186:8, the State Board has established certification requirements for public school teachers and administrators, applicable to the proposed project. See also, RSA 200:36, RSA 191:2, RSA 189:39, and the State Board of Education "Certification Standards for Educational Personnel in New Hampshire".

(5) Private schools providing secondary education in New Hampshire, are subject to RSA 193:1, 194:31, RSA 189:17, and the State Board's "Report of the Nonpublic School Study Commission".

(6) Various requirements to insure the safety of pupils in buildings used for secondary education purposes are contained in RSA 200:12; RSA 199:23, 24; RSA 155; RSA 153.

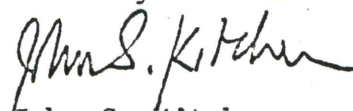
(7) Vehicles used to transport pupils are subject to RSA 263:3, 26-39, 70; RSA 200:37; and RSA 262-A:47, 53.

Finally, it should be mentioned and emphasized that the authority to supervise the operation of public secondary education and to appoint officials to carry out their directions is vested in the State Board of Education, school districts, and school boards pursuant to RSA 186:5, 186:8, 194:2, 3, and RSA 189:15. No private educational institution may limit, by the operation of any proposal, the authority of these statutory entities and the officials appointed by them.

Sincerely,



Warren B. Rudman
Attorney General



John S. Kitchen
Attorney

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The Governor and Council approved the following requests for out-of-state travel:

DEPARTMENT OF RESOURCES & ECONOMIC DEVELOPMENT

One persons to go to Pipestem, West Virginia, June 22-28. Travel by private car. Expenses not to exceed \$264.29.

N.H. STATE COUNCIL ON AGING

Two persons to go to Somerville, Ma., May 20-21. Expenses \$180 (confirmation of prior approval).

NEW HAMPSHIRE HOSPITAL

Three persons to Medford, Mass., June 12-13. Travel by state car. Expenses \$72.

CENTRALIZED DATA PROCESSING

Three persons to Wellesley, Ma., for 10 day course during period May 9 - May 20. Expenses \$265.

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The Governor and Council, on motion of Councilor Hayes, seconded by Councilor D'Allesandro, authorized the HIGHWAY SAFETY AGENCY to accept Federal Highway Safety monies \$250.00 for the purpose of sending a representative to a national conference in Washington, D.C., Grant of \$250 accepted for period June 1, 1975 - June 30, 1975 and the Comptroller was authorized to receive and disburse these funds under code 255000-90.

The Governor and Council accepted a letter from PUBLIC WORKS AND HIGHWAYS re: contract #1 Boiler Conversion N.H. STATE PRISON and voted to place same on file.

The Governor and Council, on motion of Councilor Hayes, seconded by Councilor D'Allesandro, authorized HIGHWAY SAFETY AGENCY to enter into a service agreement with Dawson Advertising Agency Inc., re: "a special highway safety drive" during summer months of 1975.

The Governor and Council, on motion of Councilor Hersom, seconded by Councilor Streeter, voted to take from the table the request from Comprehensive Planning dated May 12, 1975 and on motion of Councilor Hersom, seconded by Councilor Streeter, with Councilor Hayes dissenting voted to authorize the State Treasurer to advance \$425 to Comprehensive Planning, based on an experimental basis funds to be deposited with American Airlines for a Universal Air Travel Plan credit. The Office of Comprehensive Planning was authorized to accept the assignment of an employee of the Belknap-Merrimack Manpower Corp as State travel Coordinator and all state agencies were directed to utilize the services of said Coordinator for applicable travel arrangements.

The Governor and Council, on motion of Councilor Hayes, seconded by Councilor Streeter, with a roll call vote recording Councilor Hersom as passing adopted the following resolution:

Re: Franconia College →
(RESOLUTION CONTINUED ON NEXT PAGE)

R E S O L U T I O N

WHEREAS, His Excellency, the Governor, and the Honorable Council have expressed their concern over a proposed project to be operated by Franconia College and the Profile School District, funds for said project to be derived from federal sources; and . . .

WHEREAS, His Excellency the Governor and the Honorable Council continue to be concerned about the conformity of such proposed project with appropriate New Hampshire statutes, court decisions, and administrative regulations;

NOW, THEREFORE, His Excellency the Governor and the Honorable Council request the Attorney General to render an opinion setting forth those legal and administrative requirements that must be met if said project is to comport with appropriate New Hampshire law; and further resolve that a copy of said opinion when received shall be forwarded to the appropriate federal authorities.



William Thomas J.
Governor

James H. Hayes
Ken [illegible]

James H. Hayes
Ben H. [illegible]

May 28, 1975.

Attest:

Frederick F. Stark
Secretary of State